



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0382]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 19 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the “Instructions for Performing and Recording Physical Examinations” have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for up to 2 years in interstate commerce.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2014-0382 using any of the following methods:

- Federal eRulemaking Portal: Go to www.regulations.gov. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov, at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366-4001, or via email at fmcsamedical@dot.gov, or by letter to FMCSA, Room W64-113, Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for up to a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statutes allow the Agency to renew exemptions at the end of the 2-year period. The 19 individuals listed in this notice have requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number “FMCSA-2014-0382” and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number “FMCSA-2014-0382” and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to the proposed rulemaking.

SUMMARY OF APPLICATIONS

Daryl Charles Anderson

Mr. Anderson is a 61 year-old class A CDL holder in Michigan. He has a history of a seizure disorder and has remained seizure free since 1989. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Anderson receiving an exemption.

Cody Allen Baker

Mr. Baker is a 24 year-old driver in Michigan. He has a history of a seizure disorder and has remained seizure free for more than four years. He takes anti-seizure medication with the dosage and frequency remaining the same since December 2013. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Baker receiving an exemption.

Ronald J. Bennett

Mr. Bennett is a 58 year-old class B CDL holder in New York. He has a history of epilepsy and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Bennett receiving an exemption.

Don Carrol Darbyshire

Mr. Darbyshire is a 51 year-old class B CDL holder in Iowa. He has a history of epilepsy and has remained seizure free since 1993. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Darbyshire receiving an exemption.

Monte James DeRocini

Mr. DeRocini is a 53 year-old class A CDL holder in Pennsylvania. He has a history of a single seizure in 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. DeRocini receiving an exemption.

Martin L. Ford

Mr. Ford is a 57 year-old class C CDL holder in Mississippi. He has a history of seizures and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Ford receiving an exemption.

Glen Michael Gervais

Mr. Gervais is a 52 year-old driver in Florida. He has a history of a seizure disorder and has remained seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Gervais receiving an exemption.

Roger Green

Mr. Green is a 60 year-old class A CDL holder in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 1971. He takes anti-seizure medication with the dosage and frequency remaining the same since 2004. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Green receiving an exemption.

Susie B. Harvey

Ms. Harvey is a 64 year-old class B CDL holder in Virginia. She has a history of epilepsy and has remained seizure free since 1985. She takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, she would like to drive a CMV. Her physician states that he is supportive of Ms. Harvey receiving an exemption.

Timothy G. Huntley

Mr. Huntley is a 40 year-old class B CDL holder in Maine. He has a history of a seizure disorder and has remained seizure free since 2000. He takes anti-seizure

medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Huntley receiving an exemption.

Robert Isaac Keen, Jr.

Mr. Keen is a 66 year-old driver in Virginia. He has a history of a seizure disorder and has remained seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Keen receiving an exemption.

Chance Joseph O'Mary

Mr. O'Mary is a 29 year-old class A CDL holder in Alaska. He has a history of a seizure disorder and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. O'Mary receiving an exemption.

Larry Todd Lintelman

Mr. Lintelman is a 48 year-old class A CDL holder in Alaska. He has a history of seizures and has remained seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Lintelman receiving an exemption.

Robert D. Richter, Sr.

Mr. Richter is a 58 year-old driver in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 1976. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Richter receiving an exemption.

Robert R. Rosebrough, Jr.

Mr. Rosebrough is a 45 year-old class A CDL holder in Ohio. He has a history of epilepsy and has remained seizure free since May 2014. He takes anti-seizure medication with the dosage and frequency remaining the same since November 2014. If granted the exemption, he would like to drive a CMV. His physician states that since it has only been nine months since his last event of loss of consciousness, Mr. Rosebrough may drive his personal vehicle until he has been seizure free for 8 years.

Michael Scott Shumake

Mr. Shumake is a 37 year-old driver in Virginia. He has a history of a seizure disorder and has remained seizure free since 2000. He takes anti-seizure medication with the dosage and frequency remaining the same since 2001. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Shumake receiving an exemption.

Charles Ray Taylor

Mr. Taylor is a 49 year-old class A CDL holder in Mississippi. He has a history of a single seizure in 2009. He takes anti-seizure medication with the dosage and

frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Taylor receiving an exemption.

Karin Hawley Wagasy

Ms. Wagasy is a 58 year-old driver in Tennessee. She has a history of a seizure disorder and has remained seizure free since 1975. She takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, she would like to drive a CMV. Her physician states that he is supportive of Ms. Wagasy receiving an exemption.

Trever A. Williams

Mr. Williams is a 44 year-old class A CDL holder in Minnesota. He has a history of a single seizure in 1983 which occurred postoperatively, after a surgical procedure to remove a foreign body from his head. He takes anti-seizure medication with the dosage and frequency remaining the same since 2006. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Williams receiving an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: April 7, 2015.

Larry W. Minor,
Associate Administrator for Policy.

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